

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN SECTION OF TENNESSEE
WESTERN DIVISION

SCOTT TURNAGE, DEONTAE TATE, JEREMY S.)	Case No. 2:16-cv-2907-
MELTON, ISSACCA POWELL, KEITH BURGESS,)	SHM/tmp
TRAVIS BOYD, TERRENCE DRAIN, and)	
KIMBERLY ALLEN on behalf of themselves and all)	(Hon. Judge Samuel H. Mays)
similarly situated persons,)	
)	
PLAINTIFFS,)	
v.)	
)	
BILL OLDHAM, in his individual capacity as former)	
Sheriff of Shelby County, Tennessee; FLOYD)	
BONNER, JR., in his official capacity as Sheriff of)	
Shelby County, Tennessee; ROBERT MOORE, in his)	
individual capacity as former Jail Director of Shelby)	
County, Tennessee; KIRK FIELDS, in his official)	
capacity as Jail Director of Shelby County, Tennessee;)	
CHARLENE McGHEE, in her individual capacity as)	
former Assistant Chief of Jail Security of Shelby County,)	
Tennessee; REGINALD HUBBARD, in his official)	
capacity as Assistant Chief of Jail Security of Shelby)	
County, Tennessee; DEBRA HAMMONS, in her)	
individual capacity as former Assistant Chief of Jail)	
Programs of Shelby County, Tennessee; TIFFANY)	
WARD in her official capacity as Assistant Chief of Jail)	
Programs of Shelby County, Tennessee; SHELBY)	
COUNTY, TENNESSEE, a Tennessee municipality;)	
TYLER TECHNOLOGIES, INC., a foreign corporation;)	
GLOBAL TEL*LINK CORPORATION, a foreign)	
corporation; SOFTWARE AG USA, INC., a foreign)	
corporation; and SIERRA-CEDAR, INC., a foreign)	
corporation, SIERRA SYSTEMS GROUP, INC., a)	
foreign corporation; and TETRUS CORP, a foreign)	
corporation)	
)	
DEFENDANTS.)	

**MOTION FOR AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES,
AND INCENTIVE AWARDS TO PLAINTIFFS**

Pursuant to Rule 54(d)(2) of the Federal Rules of Civil Procedure, Plaintiffs Scott

Turnage, Deontae Tate, Jeremy S. Melton, Aubrey L. Brown, as administrator ad litem of the estate of Issacca Powell, Keith Burgess, Travis Boyd, Terrence Drain, and Kimberly Allen, on behalf of themselves and all other similarly situated persons (“Plaintiffs”), by and through their Rule 23(g)(3) appointed Interim Class Counsel, respectfully submit this Motion for Award of Attorneys’ Fees, Reimbursement of Expenses, and Incentive Awards to Plaintiffs.¹ For the reasons set forth herein, and in the supporting Memorandum, the Court should grant this Motion in its entirety.

1. This is a class action brought under the Civil Rights Act of 1871, 42 U.S.C. §§ 1983 and 1988 and Tennessee common law asserted by Plaintiffs in a Class Action Complaint initially filed on November 17, 2016.

2. Plaintiffs brought this action, on behalf of themselves and the Settlement Class, against Shelby County, Tennessee and a number of its agents for the alleged unlawful over-detention of individuals held in the Shelby County Jail, which resulted from the County’s adoption and implementation of a computer system in late 2016. Among other allegations, Plaintiffs asserted that the computer system failed to properly account for the dismissal of a number of detainee’s cases and was unable to adequately track bond settings and the posting and satisfaction of warrants. Over the course of the litigation, six private contractor defendants were sued for negligence and added as Defendants to this action in connection with their alleged roles in the development and implementation of the computer system.

3. As the Court is aware, this action was vigorously litigated for over five years. After formal mediation and extensive negotiations, Plaintiffs secured a settlement agreement

¹ To date, no Class Member has objected to this request for fees, expenses, and incentive awards. Likewise, Defendants do not oppose the request.

with Defendants for a classwide resolution of this action, the terms of which this Court preliminarily approved on August 11, 2021.

4. Class Members enjoy substantial benefits under the terms of the settlement. Indeed, Class Members who submit approved claims shall be entitled to (i) \$750 per day for each day of Over Detention between 1 and 3 days; (ii) \$1,000 per day for each day of Over Detention between 4 and 11 days; and (iii) \$2,500 per day for each day of Over Detention of 12 or more days. (Joint Declaration ¶ 14). Class Counsel negotiated for legal fees and expenses in the amount of \$2,400,000 and for an Incentive Award in the amount of \$17,500 for each of the eight Class Representatives, subject to the approval of this Court.

5. Fed. R. Civ. P. Rule 23(e) requires judicial approval of class action settlements. As the first step in the approval process, the court must give preliminary approval to the proposed settlement and approve the form and method of notice to settlement class members. *Williams v. Vukovich*, 720 F.2d 909, 921 (6th Cir. 1983); *Manual for Complex Litigation, Third* (1995) § 30.41, at 265. The Court granted preliminary approval in this case on August 11, 2021. Thereafter, the court holds a final fairness hearing at which proponents of and objectors to the settlement may be heard and after which the court makes its final determination as to whether the settlement is fair, reasonable, and adequate. *Williams*, 720 F.2d at 921; *Manual for Complex Litigation, Third*, § 30.41, at 265.

6. Plaintiffs and Class Counsel request an award of fees and expenses in the total amount of \$2,400,00.00. Plaintiffs and Class Counsel contend that, after five years of complex and hotly contested litigation, this request for an award of fees and expenses is eminently reasonable. As is set forth in the Joint Declaration, the time and hourly rate of each time keeper that worked on this matter breaks down as follows:

Law Firm	Timekeeper	Hourly Rate	Hours Expended	Total
WATSON BURNS, PLLC	Frank L. Watson, III	\$500.00	971.70	\$485,850.00
	William F. Burns	\$495.00	975.20	\$482,724.00
	William E. Routt	\$385.00	986.60	\$379,841.00
BLACK McLAREN JONES RYLAND & GRIFFEE, PC	Michael G. McLaren	\$500.00	459.90	\$229,950.00
	William E. Cochran, Jr.	\$420.00	548.80	\$230,496.00
	Brice M. Timmons	\$420.00	410.90	\$172,578.00
	Holly Jackson Renken	\$375.00	234.10	\$87,787.50
	Charles S. Mitchell	\$375.00	32.20	\$12,075.00
	Christopher M. Williams	\$220.00	115.50	\$25,410.00
	Paralegal/Law Clerk	\$135.00	415.00	\$56,025.00
	Other Attorneys	Various	27.80	\$6,527.50
DONATI LAW, PLLC	Brice M. Timmons	\$420.00	177.70	\$74,634.00
	Craig A. Edgington	\$275.00	207.25	\$56,993.75
	Paralegal	\$135.00	4.0	\$540.00
TOTALS:			5566.65	\$2,301,431.75

7. These hours do not include any hours performed after the date of this filing and thus do not include preparation for the Final Fairness Hearing, attendance at the Final Fairness Hearing, or Counsel's involvement in the ongoing claims period and claims process, which will continue after the Final Fairness Hearing. While this is merely a prediction, it is likely that Counsel will expend in excess of 100 hours that is not included in the chart above.

8. Moreover, Class Counsel incurred a total of \$143,418.95 in expenses in the prosecution of this case, which includes expenses associated with e-discovery document hosting and review, seventeen depositions, and all of the ordinary costs of litigation. All of these expenses were necessary and reasonable in the prosecution of this case. Class Counsels' fees (at their respective market rates based on hours expended) and expenses for the prosecution and successful settlement of this action accordingly total \$2,446,272.23, which exceeds amount that Plaintiffs and Counsel request that the Court award. The Court should approve the requested award of fees in expenses in the amount of \$2,400,000 in its entirety.

9. 42 U.S.C. § 1988 provides that, in an action or proceeding under 42 U.S.C. § 1983, "the court, in its discretion, may allow the prevailing party...a reasonable attorney's fee..." "The purpose of this fee-shifting statute is to 'ensure effective access to the judicial process for persons with civil rights grievances.'" *Grier v. Goetz*, 421 F. Supp. 2d 1061, 1068 (M.D. Tenn. 2006).

10. Even if the requested award was not justified by the applicable fee shifting statute, the award is fair and reasonable and should be approved by this Court, as is fully demonstrated in the Memorandum supporting this Motion and in the supporting Declarations.

11. In the settlement, Defendants agreed to provide additional compensation in the amount of \$17,500 to each of the eight named Plaintiffs for the services that they provided to the Class as Class Representatives. This is commonly done in class action litigation and is referred to as an "incentive award" to compensate the actual class representatives that took their time to participate in discovery and depositions and to generally lead the prosecution of the class litigation.

For the foregoing reasons, the Plaintiffs and Class Counsel respectfully move this Honorable Court to award attorneys' fees and expenses in the amount of \$2,400,000 and a \$17,500 incentive award payable to each Class Representative, all of which is fair and reasonable in all respects.

Dated: October 27, 2021

Respectfully submitted,

s/ Michael G. McLaren

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Counsel for the named Plaintiffs and Court Appointed Rule 23(g)(3) Interim Class Counsel for the putative Class Members

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of October, 2021, a true and correct copy of the foregoing pleading has been filed electronically with the Court's Electronic Case Filing System. Pursuant to the Court's ECF System, the following parties listed below are filing users who will receive notice of the foregoing document's filing:

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